

REMARKS

This is in response to the non-final Office Action mailed on November 5, 2004, and the references cited therewith. Claims 1, 9-11, and 15 are amended; as a result, claims 1-4, 8-15, and 32-34 are now pending in this application.

§102 Rejection of the Claims

Claims 1-4 and 8-15 were rejected under 35 USC § 102(b) as being anticipated by Godin et al. (U.S. 5,890,138). In response, Applicants have amended independent claims 1, 11 and 15 to more accurately recite the limitations of the Applicants' invention. Applicants respectfully maintain that the claims are patentable over the prior art of record.

Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Applicants respectfully submit that the Office Action did not make out a *prima facie* case of anticipation for the following reasons:

- (1) The reference does not teach each and every claim element.

Independent claims 1 and 15 recites: "presenting via a first network a sales screen to a user showing a plurality of price choices for an item" and recites: "generating a feedback indication for the item, at each of the plurality of price choices, using available supply and sales level information generated from actions of other users." In contrast, Godin et al. describes an auction system, which allows users to participate using computers connected via a network. These users may view a screen displaying product information including a single value for a

street price for an item at a current point in time. (See Godin et al at FIG. 9). Thus, Godin et al does not teach each element of claims 1 and 15 because Godin et al. fails to disclose both the presentation of a plurality of price choices for a given item as well as fails to generate a feedback indication for the item, at each of the plurality of price choices, from activity of other users.

The Examiner in ¶ 13 of the Office Action alleges that Godin does teach presenting a plurality of price choices by asserting: “Godin et al do [sic] disclose a web server for communication product price information to a user. Thus, if the server communicates the product prices information to the user, the user has the capability to make a choice in the choices for the product. Note col. 7 line 45 through col. 8 line 5.” (See Office Action at pp. 5-6). However, the Examiner’s argument and the cited passage from Godin et al. do not address the argument that a plurality of different price choices at which a user may purchase the listed item are presented to the user at the same time. Nor does this argument or cited passage from Godin et al. disclose the generation and presentation of a feedback indication regarding the purchase of the given item at each of the plurality of price choices. As such, Godin et al. does not teach or disclose all of the elements recited within claims 1 and 15. As such, claims 1 and 15 are patentable over the prior art of record.

Claims 2-4 and 8-10 are dependent claims containing all of the limitations recited within claim 1. These claims recited additional limitations are at least patentable over the prior art of record for the same reasoning.

Claim 11 recites: “a feedback indication area responsive to the sales server via the network and operative to display a feedback indication, derived from a quantity of the item available and sales of the item through other sales terminals, in association with the plurality of price choices.” In contrast, Godin et al. describes an auction system, which allows users to participate using computers connected via a network. These users may view a screen displaying product information including a single value for a street price for an item at a current point in time. (See Godin et al at FIG. 9). Thus, Godin et al does not teach each element of claims 1, 11 and 15 because Godin et al. fails to disclose both the presentation of a plurality of price choices for a given item, and also fails to disclose generating a feedback indication for the item, at each of the plurality of price choices, from activity of other users.

§103 Rejection of the Claims

Claims 32-34 were rejected under 35 USC § 103(a) as being unpatentable over Godin et al. in view of Fisher et al. (U.S. 6,243,691). Claims 32-33 are dependent claims reciting all of the limitations recited within claim 1. Claim 34 is also a dependent claim reciting all of the limitations of Claim 11. As discussed above, claims 1 and 11 are patentable over Godin et al. for the failure to disclose both the presentation of a plurality of price choices for a given item and the generation of a feedback indication for the item at each of these plurality of price choices from activity of other users. Fisher et al. does not remedy this deficiency of Godin et al. As such, dependent claims 32-34 are also patentable over the prior art of record for at least the reasons recited above.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 612-371-2144 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

DAVID TRAYNOR ET AL.

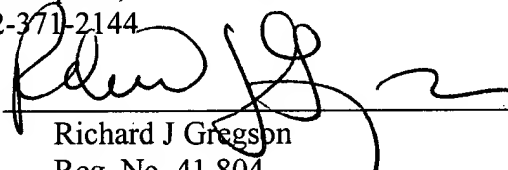
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Date

24 March 2005

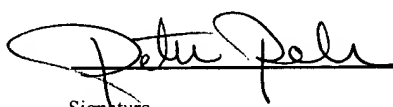
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